

## Subpart F—Misrepresentation

SOURCE: 51 FR 43324, Dec. 1, 1986, unless otherwise noted.

### § 668.71 Scope and special definitions.

(a) This subpart establishes the standards and rules by which the Secretary may initiate a proceeding under subpart G against an otherwise eligible institution for any substantial misrepresentation made by that institution regarding the nature of its educational program, its financial charges or the employability of its graduates.

(b) The following definitions apply to this subpart:

*Misrepresentation:* Any false, erroneous or misleading statement an eligible institution makes to a student enrolled at the institution, to any prospective student, to the family of an enrolled or prospective student, or to the Secretary. Misrepresentation includes the dissemination of endorsements and testimonials that are given under duress.

*Prospective student:* Any individual who has contacted an eligible institution for the purpose of requesting information about enrolling at the institution or who has been contacted directly by the institution or indirectly through general advertising about enrolling at the institution.

*Substantial misrepresentation:* Any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment.

(Authority: 20 U.S.C. 1094)

### § 668.72 Nature of educational program.

Misrepresentation by an institution of the nature of its educational program includes, but is not limited to, false, erroneous or misleading statements concerning—

(a) The particular type(s), specific source(s), nature and extent of its accreditation;

(b) Whether a student may transfer course credits earned at the institution to any other institution;

(c) Whether successful completion of a course of instruction qualifies a student for—

(1) Acceptance into a labor union or similar organization; or

(2) Receipt of a local, State or Federal license or a non-governmental certification required as a precondition for employment or to perform certain functions;

(d) Whether its courses are recommended by—

(1) Vocational counselors, high schools or employment agencies; or

(2) Governmental officials for governmental employment;

(e) Its size, location, facilities or equipment;

(f) The availability, frequency and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;

(g) The nature, age and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;

(h) The number, availability and qualifications, including the training and experience, of its faculty and other personnel;

(i) The availability of part-time employment or other forms of financial assistance;

(j) The nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course;

(k) The nature of extent of any prerequisites established for enrollment in any course; or

(l) Any matters required to be disclosed to prospective students under §§ 668.44 and 668.47 of this part.

(Authority: 20 U.S.C. 1094)

[51 FR 43324, Dec. 1, 1986, as amended at 54 FR 24118, June 5, 1989; 59 FR 22320, Apr. 29, 1994]

### § 668.73 Nature of financial charges.

Misrepresentation by an institution of the nature of its financial charges includes, but is not limited to, false, erroneous or misleading statements concerning—

## **§ 668.74**

(a) Offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges made known to the student in advance. The charges made known to the student in advance are the charges applied to all students not receiving a scholarship; or

(b) Whether a particular charge is the customary charge at the institution for a course.

(Authority: 20 U.S.C. 1094)

## **§ 668.74 Employability of graduates.**

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous or misleading statements—

(a) That the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment.

(b) That the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance; or

(c) Concerning government job market statistics in relation to the potential placement of its graduates.

(Authority: 20 U.S.C. 1094)

## **§ 668.75 Procedures.**

(a) On receipt of a written allegation or complaint from a student enrolled at the institution, a prospective student, the family of a student or prospective student, or a governmental official, the designated department official as defined in § 688.81 reviews the allegation or complaint to determine its factual base and seriousness.

(b) If the misrepresentation is minor and can be readily corrected, the designated department official informs the institution and endeavors to obtain an informal, voluntary correction.

(c) If the designated department official finds that the complaint or allegation is a substantial misrepresentation as to the nature of the educational programs, the financial charges of the institution or the employability of its graduates, the official—

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(1) Initiates action to fine or to limit, suspend or terminate the institution's eligibility to participate in the Title IV, HEA programs according to the procedures set forth in subpart G, or

(2) Take other appropriate action.

(Authority: 20 U.S.C. 1094)

## **Subpart G—Fine, Limitation, Suspension and Termination Proceedings**

SOURCE: 51 FR 43325, Dec. 1, 1986, unless otherwise noted.

## **§ 668.81 Scope and special definitions.**

(a) This subpart establishes regulations for the following actions with respect to a participating institution or third-party servicer:

(1) An emergency action.

(2) The imposition of a fine.

(3) The limitation, suspension, or termination of the participation of the institution in a title IV, HEA program.

(4) The limitation, suspension, or termination of the eligibility of the servicer to contract with any institution to administer any aspect of the institution's participation in a Title IV, HEA program.

(b) This subpart applies to an institution or a third-party servicer that violates any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA.

(c) This subpart does not apply to a determination that—

(1) An institution or any of its locations or educational programs fails to qualify for initial designation as an eligible institution, location, or educational program because the institution, location, or educational program fails to satisfy the statutory and regulatory provisions that define an eligible institution or educational program with respect to the Title IV, HEA program for which a designation of eligibility is sought;

(2) An institution fails to qualify for initial certification or provisional certification to participate in any Title